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TITLE 16. CONSUMERS, COMMERCIAL PRACTICES, & CIVIL INFRACTIONS

CHAPTER 13. CHARITABLE SOLICITATION

CDCR 16-1300 (2004)

16-1300. GENERAL PROVISIONS

1300.1 The provisions of this chapter are adopted under the authority of § 11 of Pub. Law 85-87, the "District of Columbia Charitable Solicitation Act," 71 Stat. 281 (D.C. Code § 2-170 (1981 Ed.)), which is also referred to in this chapter as the "Act."

1300.2 The provisions of this chapter shall be applicable to persons soliciting or receiving, or attempting to solicit or receive, contributions in the District of Columbia, except as provided otherwise in this chapter and § 4 of the Act (D.C. Code § 2-703 (1981 Ed.)).

1300.3 The Director of the Department of Consumer and Regulatory Affairs (also referred to in this chapter, respectively, as the "Director" and the "Department") shall administer the provisions of the Act and this chapter, and shall prescribe the administrative procedures necessary for their administration.

1300.4 The Director shall prescribe the necessary forms to carry out the purposes of the Act and this chapter.

1300.5 All statements and other information filed with the Department by a registrant under the provisions of the Act and this chapter shall be public records and shall be open to inspection during usual business hours.

CDCR 16-1301 (2004)

16-1301. EXEMPTION OF SMALL SOLICITATIONS

1301.1 Under the authority of § 4(d) of the Act [D.C. Code § 2-703(d)] (1981 Ed.), any person or individual who, in connection with a solicitation, does not actually receive contributions in excess of fifteen hundred dollars (\$ 1,500) during a calendar year and who complies with the provisions of this section, shall be exempt from the provisions of D.C. Code § § 2-703(a), 2-705, and 2-706 (1981 Ed.).

1301.2 All functions, including fund raising functions, of a person or individual exempt under this section shall be carried on by individuals who are unpaid for their services.

1301.3 No part of the contributions collected by an individual or person exempt under this section shall inure to the benefit of or be paid to any officer, member, or solicitor.

CDCR 16-1302 (2004)

16-1302. EXEMPTION OF MEMBERSHIP AND WORKFORCE SOLICITATIONS

1302.1 The provisions of this chapter and § § 4(a), 5, 6, 7, and 9 of the Act (D.C. Code § § 2-703(a), 2-704, 2-705, 2-706, and 2-708 (1981 Ed.)) shall not be applicable to any solicitation which meets the requirements of this section.

1302.2 Any solicitation of the members (or the families of members) of any church, club, or society the governing body of which, by official action spread upon minutes of that body, has approved that solicitation, and has made provision acceptable to the Director to supervise the solicitation, shall be exempt under this section.

1302.3 Any solicitation of the members of a work force of any public or private organization, if that solicitation is approved by and conducted under the supervision of the employer or the employer's duly authorized representative, and is only carried on within the place or places of employment of the work force, shall be exempt under this section.

1302.4 For the purposes of § 1302.3, the term "organization" means any public, quasi-public, or private firm, establishment, association, plant, factory, or other place of employment; the government of the District of Columbia or any department, agency or office thereof; and any department, agency, office, or corporation of the government of the United States.

CDCR 16-1303 (2004)

16-1303. EXEMPTION OF RELIGIOUS AND EDUCATIONAL SOLICITATIONS

1303.1 No person claiming exemption under the authority of § 4(b) of the Act [D.C. Code § 2-703(b) (1981 Ed.)] shall solicit contributions until after that person has filed with the Director the proof of exemption required by this section.

1303.2 In accordance with the Act, the exemption from the provisions of the Act and this chapter shall remain in effect only so long as the person continues to be exempt from federal taxation under the provisions of § 501 of the Internal Revenue Code of 1954.

1303.3 Persons claiming exemption from the Act under the authority of § 4(b) shall file proof of the exemption with the Director.

1303.4 Proof of exemption shall consist of the following:

(a) A photostat or certified true copy of a ruling letter issued by the Internal Revenue Service of the United States Treasury Department holding the person claiming exemption under § 4(b) of the Act to be exempt under § 501 of the Internal Revenue Code of 1954; and

(b) An affidavit stating that the exemption under § 501 of the Internal Revenue Code of 1954 is in force and effect on the date of the submission of proof under this section.

CDCR 16-1304 (2004)

16-1304. CERTIFICATES OF REGISTRATION

1304.1 Application for a certificate of registrations, under the provisions of § 4 of the Act [D.C. Code § 2-703(a) (1981 Ed.)] shall be made in accordance with the provisions of this section.

1304.2 Each application for a certificate of registration shall contain the following information:

(a) The name, address, and headquarters of the applicant;

(b) If incorporated, the date and place of incorporation;

(c) If the applicant is not an individual, the names and headquarters of the applicant's principal officers and managers and a copy of the resolution authorizing the person or persons making application

for the certificate of registration on behalf of the applicant to take that action, certified to as a true and correct copy by the person having charge of the applicant's records;

(d) A copy of the charter and by-laws of the applicant;

(e) The purposes of the solicitation to be made under the authority of the certificate of registration applied for, the estimated total of funds proposed to be raised by the solicitation, and all the uses or dispositions to be made of the funds;

(f) The names and addresses of all persons who will have responsibility for managing the solicitations, including managerial personnel both within and outside the District;

(g) The names and addresses of all persons by whom the receipts or proceeds of the solicitation may be disbursed;

(h) An outline of the method or methods to be used in conducting the solicitation;

(i) The time when solicitations are to be made, giving the dates on which solicitations are to begin and end;

(j) The total estimated cost of the solicitation, including all costs of administration, promotion, solicitations, collection, and disbursement; and

(k) A statement of the estimated cost of the solicitation, expressed as a percentage of the estimated total amount expected to be collected.

1304.3 If professional fundraisers or solicitors will be connected with the solicitation to any extent, the following information shall be provided with the application:

(a) The names and addresses of all professional fund raisers and professional solicitors;

(b) The amount of wages, fees, commissions, expenses, or emoluments to be paid to each professional fund raiser and professional solicitor; and

(c) A copy of the contract, if any, made by or on behalf of the applicant with each professional fund raiser and professional solicitor.

1304.4 Each application shall be accompanied by an itemized financial statement for the last preceding calendar year or fiscal year, as the records of applicant may be kept, of any funds collected in the District of Columbia through a charitable solicitation by or on behalf of the applicant. This statement shall disclose the amount of money so collected, together with the costs of collecting, and the final distribution of the funds collected.

1304.5 If the applicant completes an application for renewal of registration prior to the expiration of a registration period the applicant need not file an itemized financial statement under § 1304.4, except upon demand of the Director. Nothing in this section shall absolve the applicant from compliance with the reporting requirements of § 7 of the Act (D.C. Code § 2-706 (1981 Ed.)).

1304.6 Each application shall be accompanied by a full statement of the character and extent of the charitable work being done by the applicant in the District.

1304.7 Each application shall be accompanied by a statement to the effect that if the certificate of registration is granted, the certificate will not be used or represented in any way as an endorsement by the District or by the Department of the solicitation to be conducted under the authority of the certificate.

1304.8 If the applicant is a non-resident, the applicant shall appoint and maintain an attorney-in-fact to act as the applicant's agent in the District for the service of any notice or process authorized by the Act or this chapter.

1304.9 If the applicant is unable to furnish any of the information required by this section, a detailed statement shall be given the Director of the reason or reasons why the information cannot be furnished.

1304.10 The fee for a certificate of registration shall be eighty dollars (\$ 80) which shall be paid at the time application is made.

16-1305. ISSUANCE OR DENIAL OF CERTIFICATES OF REGISTRATION

1305.1 Upon the filing of an application, the Director may investigate or cause to be investigated the statements contained in the application.

1305.2 The Director is authorized to deny a certificate of registration to an applicant if, upon investigation, the Director has reason to believe that one or more of the following facts exist:

- (a) That the applicant has failed to complete the application;
- (b) That the application contains false or misleading information; or
- (c) That the application does not disclose sufficient information as required by the Act or this chapter.

1305.3 Each certificate of registration shall bear the following:

- (a) The name and address of the registrant;
- (b) The number of the certificate, as assigned by the Director;
- (c) The date of issuance and the expiration date;
- (d) A statement that the certificate does not constitute an endorsement by the District of Columbia, or by any officer or employee of the District, of the purpose of or the person conducting the solicitation; and
- (e) Other information or conditions that the Director may require.

1305.4 A certificate of registration shall be valid for the length of time stated on the certificate but in no event for more than one (1) year.

1305.5 Duplicates of certificates of registration shall be made available to the registrant, upon written request, at a cost of one dollar (\$ 1) for each duplicate.

1305.6 No person shall use or display any certificate of registration after the certificate has expired or has been suspended or revoked.

CDCR 16-1306 (2004)

16-1306. SOLICITOR INFORMATION CARDS

1306.1 Each registrant and each applicant for a certificate of registration shall make application to the Director for the number of solicitor information cards that will be required to conduct the solicitation.

1306.2 At the request of persons exempt under § § 4(b), (c), and (d) of the Act, the Director shall issue to them identification cards to be distributed to each solicitor employed by that exempt person.

1306.3 Solicitor information cards shall be supplied at cost.

1306.4 Each solicitor information card shall be serially numbered and shall bear following information:

- (a) The name and address of the solicitor;
- (b) The number of certificate of registration under the authority of which the solicitor solicits contributions;
- (c) The name of the registrant;

- (d) The dates within which solicitations may be made;
- (e) A statement that the card does not constitute an endorsement of the solicitation by the District of Columbia, or by any officer or employee of the District; and
- (f) Other information or conditions that the Director may require.

1306.5 The Director may, in his or her discretion, issue solicitor information cards with the names of the solicitors omitted. If the cards are issued without names, the names of the solicitors shall subsequently be furnished to the Director at the Director's request.

1306.6 The Director may, in connection with any request for solicitor information cards, require the registrant to submit a list in triplicate of the names and addresses of the persons for whom the cards are being requested, and the Director may either prepare or cause to be prepared a solicitor information card for each name appearing on the list, or the Director may serially number the names of the list and issue like-numbered cards to the registrant, for completion in accordance with the requirements of this section.

1306.7 No registrant to whom the Director issues serially numbered cards against a serially numbered list of names shall issue any card to any person other than the person indicated on the list of names by the same number as that appearing on a card.

1306.8 No registrant issued a completely filled-out solicitor information card shall distribute the card to any person other than the person named on the card.

1306.9 No person other than the person whose name appears on the solicitor information card shall be issued that card or be authorized to use the card by a person whose name does not appear on the card, even if the person is employed by a registrant to make solicitations, shall be a violation of this chapter.

1306.10 Each registrant shall be responsible for carrying out and securing compliance with the provisions of this section and § 1307. Failure or refusal of any registrant or solicitor to comply with the provisions of these sections shall be grounds for the suspension or revocation of the certificate of registration issued to the registrant.

CDCR 16-1307 (2004)

16-1307. DISPLAY OF SOLICITOR INFORMATION CARDS

1307.1 A solicitor information card may be displayed in any manner that the registrant or the individual solicitor desires, but the card shall be produced or displayed whenever any solicitation is made, and the person solicited shall be given an opportunity to examine the information contained on the card.

1307.2 If solicitations are made at a fixed location, the registrant or solicitor may post an enlargement of the solicitor information card, or a sign in the English language containing the same information as the card.

1307.3 The enlarged card or sign shall be prominently displayed in a manner that is readily legible to any prospective contributor.

CDCR 16-1308 (2004)

16-1308. DENIAL, SUSPENSION, OR REVOCATION OF REGISTRATION

1308.1 Whenever the Director finds, after notice and hearing as required by this section, that a person to whom a certificate of registration has been issued has violated or is violating any of the provisions of the Act or this chapter, or

that any registrant, promoter, or solicitor has misrepresented the purpose of the solicitation, the Director may revoke or suspend the certificate of registration of the registrant.

1308.2 Prior to refusing to issue a certificate of registration, the Director shall, by written notice, afford the applicant for the issuance of the certificate an opportunity to show cause, at an open hearing to be conducted by the Director, why the issuance of the certificate should not be denied.

1308.3 Prior to suspending or revoking a certificate of registration, the Director shall, by written notice, afford the registrant an opportunity to show cause, at an open hearing to be conducted by the Director, why the certificate should not be suspended or revoked.

1308.4 The notice of denial, suspension, or revocation shall include the following:

- (a) A statement of the reason for the Director's proposed refusal to issue, or proposed suspension or revocation of the certificate;
- (b) Allowance of a reasonable time, not to exceed ten (10) days, within which the applicant for a certificate or the registrant, may show cause why the application should not be denied, or why the certificate should not be suspended or revoked;
- (c) Specification of the date, time, and place of the open hearing to be granted to the applicant or registrant;
- (d) A statement that the applicant or registrant may be represented by an attorney; may testify on his or her own behalf; may present witnesses, evidence, and argument; and may cross-examine any witnesses against the applicant or registrant; and
- (e) The signature of the Director or designated agent.

1308.5 The notice under § 1308.4 shall be deemed to have been properly served upon an applicant for the issuance of a certificate of registration, or upon a registrant, as the case may be, as follows:

- (a) If a copy of the notice is personally delivered to the applicant or registrant;
- (b) If a copy is left at the usual place of business or usual residence of the applicant or registrant with a person over the age of sixteen (16) years who is then employed in that place of business or resides in that residence; or
- (c) If a copy is mailed postage prepaid to the last known address of the applicant or registrant.

CDCR 16-1309 (2004)

16-1309. APPEAL OF DENIAL, SUSPENSION, OR REVOCATION OF REGISTRATION

1309.1 An appeal from any decision of the Director denying, suspending, or revoking a certificate of registration may be taken to the Board of Appeals and Review by the applicant or registrant not later than ten (10) days from the date on which notice of the decision was served on the applicant or registrant.

1309.2 Appeals shall be in writing and shall state the reason or reasons why the decision of the Director should be vacated, modified, or reversed.

1309.3 Appeals shall be in the form prescribed by the Board of Appeals and Review.

CDCR 16-1310 (2004)

16-1310. ADMINISTRATION AND ENFORCEMENT

1310.1 The Director shall perform the functions vested in the Mayor by the Act, unless the Act or this chapter specifically requires performance of a function by a District official other than the Director.

1310.2 The Director may investigate or direct an appropriate investigation of any information contained in an application.

1310.3 Either the Director or the Chief of Police may cause investigation to be made of any registrant or other person whom the Director or Chief of Police has probable cause to believe is engaging in charitable solicitation in violation of the Act or this chapter.

1310.4 If the Chief of Police knows or has probable cause to believe that a violation of the Act or this chapter has been or is being committed, the Chief shall take or cause to be taken appropriate action to enforce the Act or this chapter.

1310.5 The Director shall maintain a file of persons entitled to exemption under § 4(b) of the Act.

1310.6 Any person claiming exemption from the provisions of the Act under § 4(c)(2) of the Act [D.C. Code § 2-703(c)(2) (1981 Ed.)], on the grounds that the person is soliciting exclusively among the membership of the soliciting agency, shall, if required by the Director or the Chief of Police, furnish information to the Director or the Chief of Police to show that the individuals solicited or to be solicited are in fact members or employees of the soliciting agency. Upon request, the person shall also furnish a copy of the soliciting agency's charter and by-laws.

1310.7 Any person soliciting contributions, or believed to be soliciting contributions, shall, upon demand by the Director or Chief of Police, display his or her solicitor information card. If the person is employed by an exempt person, he or she shall display sufficient evidence to support the contention that the solicitation is exempt.

CDCR 16-1311 (2004)

16-1311. APPOINTMENT OF ATTORNEY-IN-FACT

1311.1 Each non-resident applicant for a certificate of registration, each non-resident registrant, and each resident applicant or registrant who or which becomes a non-resident, shall be deemed to have appointed the Director as his or her agent upon whom may be served any notice or process issued under the authority of the Act or this chapter.

1311.2 The provisions of § 1311.1 shall not apply if the applicant, in the application, or the registrant appoints and maintains an attorney-in-fact who is a bona fide resident of the District of Columbia to receive service of notice or process and registers the name of the attorney-in-fact with the Director.

1311.3 Unless within ten (10) days after any change occurs which results in the inability of the registered attorney-in-fact to function as such, the applicant or registrant has appointed a new or additional attorney-in-fact and registers the name of such new or additional attorney-in-fact with the Director, the applicant or registrant shall be deemed to have appointed the Director his agent to receive notice or process to be served on the applicant or registrant under the authority of the Act or this chapter.

CDCR 16-1399 (2004)

16-1399. DEFINITIONS

1399.1 The terms and phrases used in this chapter shall have the meaning ascribed to them in § 2 of the Act (D.C. Code § 2-701 (1981 Ed.)).

1399.2 In addition, when used in this chapter, the following terms and phrases shall have the meanings ascribed:

Beneficiary - any person for whom, or on whose behalf, directly or indirectly, any solicitation is made.

Board of Appeals and Review - the Board of Appeals and Review established by District of Columbia Organization Order No. 112, as that order may from time to time be amended.

Certificate of registration or certificate - the certificate of registration required by § 4(a) of the Act.

Chief of Police - the Chief of the District of Columbia Metropolitan Police Department or the Chief's designated agent.

Collector - any person collecting or securing, or attempting to collect or secure, a contribution, whether as a solicitor, runner, messenger, "pick-up" person, or by whatever name called, and regardless whether the person is employed by the person for or on whose behalf the contribution is collected or secured, or attempted to be collected or secured.

Department - the Department of Consumer and Regulatory Affairs.

Director - the Director of the Department or the Director's representative, agent, or designee.

Employ or employed - the use of any person for the purpose of making solicitations or collections for or on behalf of a registrant or beneficiary, regardless whether the person receives compensation or not, and such terms shall include the use of independent contractors and unpaid volunteers.

Member - a person who has been admitted to membership in a soliciting agency as the result of having made application for membership in such agency, and shall also mean any officer or employee of a soliciting agency. The mere issuance of a membership card to a contributor at the time a contribution is made, or in return for a contribution, shall not constitute the contributor a "member" of the soliciting agency within the meaning of this chapter.

Membership - the state of being a member in a soliciting agency. The term shall also mean the body of members of a soliciting agency.

Non-resident - a person not having a residence or principal place of business in the District, including corporations not incorporated in the District.

Professional fund raiser - any person, except a bona fide officer or employee of a charitable organization, who for compensation or other consideration plans, conducts, manages, or carries on any drive or campaign in the District for the purpose of the soliciting contributions for or on behalf of any charitable organization or other person; or who engages in the business of or who holds himself or herself out to persons in the District as independently engaged in the business of soliciting contributions for that purpose.

Professional solicitor - any person who is employed or retained for compensation by another person to solicit contributions for charitable purposes from persons in the District of Columbia.

Resident - any person having either a residence or principal place of business within the District of Columbia. The term "resident" shall not include any corporation incorporated elsewhere than in the District.

Soliciting agency - any person engaged in the solicitation of contributions. The term "soliciting agency" shall, for the purpose of § 4(c)(2) of the Act [D.C. Code § 2-703(c)(2) (1981 Ed.)], also mean any public or private organization or establishment, the government of the District of Columbia, and any department, agency, office, or corporation of the United States government, meeting the requirements of § 1302 of this chapter.

Solicitor - any person who makes or causes to be made any request, directly or indirectly, for any contribution on the plea or representation that the contribution will or may be used, in whole or in part, for any charitable purpose. "Solicitor" includes "collector," as defined in this section.

Solicitor information card - the card or copy of the card required by § 6(a) of the Act [D.C. Code § 2-705(a) (1981 Ed.)].